

AMENDED IN SENATE SEPTEMBER 10, 2009

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 569

Introduced by Assembly Members Emmerson and Solorio
(Principal coauthor: Senator Correa)

February 25, 2009

An act to add Section 6612 to, and to add and repeal ~~Sections 10186 and Section 10187~~ of, the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Emmerson. Public contracts: disabled veteran business enterprise: small business enterprise.

Under existing law, state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement are required to meet specified participation goals for disabled veteran business enterprises and small business enterprises.

This bill would provide that, for any contract advertised by a state agency or department on or before July 28, 2009, the state agency or department shall award the contract to the lowest responsible bidder meeting or making a good faith effort to meet existing disabled veteran business enterprise goals. ~~This bill would also, until January 1, 2015,~~

~~authorize awarding departments, as defined, to solicit bids solely from disabled veteran business enterprises and small business enterprises where the construction contract is for \$1,000,000 or less. This bill would additionally require departments, a department, until January 1, 2015, 2014, when awarding a public works contract to the lowest responsible bidder, to consider the efforts of a bidder to meet the disabled veteran business enterprise goals, subject to specified documentation required of the responding bidder.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6612 is added to the Public Contract
2 Code, to read:

3 6612. For any contract advertised on or before July 28, 2009,
4 the state agency or department shall award the contract to the
5 lowest responsible bidder meeting or making a good faith effort
6 to meet the disabled veteran business enterprise goals established
7 pursuant to Article 6 (commencing with Section 999) of Chapter
8 6 of Division 4 of the Military and Veterans Code.

9 ~~SEC. 2. Section 10186 is added to the Public Contract Code,~~
10 ~~to read:~~

11 ~~10186. (a) When soliciting bids for a construction contract~~
12 ~~subject to this chapter of one million dollars (\$1,000,000) or less,~~
13 ~~the awarding department may, at its discretion, solicit bids solely~~
14 ~~from disabled veteran business enterprises and small business~~
15 ~~enterprises.~~

16 ~~(b) In the event no bids are received from disabled veteran~~
17 ~~business enterprises or small business enterprises, the awarding~~
18 ~~department may immediately solicit for bids for the contract~~
19 ~~generally and award the contract to the lowest responsible bidder~~
20 ~~without regard to standing as a disabled veteran business enterprise~~
21 ~~or a small business enterprise.~~

22 ~~(c) For purposes of this section, "awarding department" means~~
23 ~~any state agency, department, governmental entity, or other officer~~
24 ~~or entity empowered by law to enter into contracts on behalf of~~
25 ~~the State of California.~~

~~(d) This section shall become inoperative on December 31, 2014, and on January 1, 2015, is repealed.~~

~~SEC. 3.~~

SEC. 2. Section 10187 is added to the Public Contract Code, to read:

10187. (a) In awarding a public works contract subject to this chapter to the lowest responsible bidder, the awarding department shall consider the efforts of a bidder to meet the disabled veteran business enterprise goals established pursuant to Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code. The awarding department shall award the contract to the lowest responsible bidder meeting or documenting specific efforts to meet these goals.

(b) A bidder shall be deemed to have met the specific effort requirements upon submittal, within the time limits specified by the awarding department, of documentary evidence that the following actions were taken:

(1) Contact was made with the awarding department and a search was conducted on the Department of General Services'; California certified disabled veteran business enterprise database to identify disabled veteran business enterprises specific to the contract.

(2) Sufficient work was made available to disabled veteran business enterprises to meet the contract goal.

(3) Subcontract bids were solicited from disabled veteran business enterprise firms. When soliciting subcontractor bids, the bidder shall do the following:

(A) Provide interested disabled veteran business enterprises with information, including, but not limited to, identification of the work available, the date the disabled veteran business enterprise's bid was due to the bidder, the specified bonding and licensing requirements, and the prime contractor's contact person.

(B) Give disabled veteran business enterprises ~~a reasonable time to respond to a solicitation. A seven-calendar-day response time shall be presumed to be reasonable.~~ *no less than seven calendar days to respond to a solicitation.*

(C) Utilize various contact methods, including, but not limited to, published advertising, ~~by~~ telephone, e-mail, fax, or United States mail.

(D) Provide the awarding department with all disabled veteran business enterprise bids received. If a bid of a disabled veteran

1 business enterprise is rejected, provide the bid of the selected
2 nondisabled veteran business enterprise and the reasons for
3 rejecting the disabled veteran business enterprise bid.

4 ~~(e) For purposes of this section, “awarding department” means~~
5 ~~any state agency, department, governmental entity, or other officer~~
6 ~~or entity empowered by law to enter into contracts on behalf of~~
7 ~~the State of California.~~

8 ~~(d)~~

9 (c) This section shall become inoperative on December 31,
10 2014, and on January 1, 2015, is repealed. 2013, and on January
11 1, 2014, is repealed.

12 ~~SEC. 4.~~

13 SEC. 3. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 In order to eliminate confusion with regard to the bidding process
18 for state contracts as soon as possible, thus preserving the quality
19 of work provided and the health and safety of the citizens of
20 California, it is necessary that this act take effect immediately.